

**REMARKS****1. Status of the Claims and Formal Matters****a. Amendments**

Claims 1-2 and 5-26 are pending in this application. Claims 9-10 and 13-20 are withdrawn from further consideration.

Claims 2, 5-7, 9-10, 13, 15-22 and 24-25 are hereby cancelled without prejudice to pursuing these claims in a continuing application. Claims 1 and 26 are amended. Upon entry of these amendments, claims 1, 8, 11-12, 14, 23 and 26 are pending and under active consideration. Applicant respectfully requests entry of the amendments and remarks made herein into the file history of the present application.

Claim 1 is amended to recite that the nucleic acid consists of 77 up to 120 nucleotides, support for which may be found throughout the application including SEQ ID NO: 14.

Claim 26 is amended to recite that the sequence of the nucleic acid consists of the sequence of SEQ ID NO: 14.

**b. Interview Summary**

The undersigned would like to thank Examiner DeJong for the courtesy of the telephone interview of July 28, 2006 during which the cited art, claim scope, and possible amendments were discussed. In addition, the deficiencies of Fire et al., Nature (1998) as a possible reference were discussed.

**2. Patentability Rejections****a. § 112, second paragraph**

At page 2 of the Office Action, the Examiner rejects claims 1, 2, 5-8, 11-12, 14 and 21-26 under 35 U.S.C. § 112, second paragraph, as being indefinite.

With respect to claim 1, the Examiner alleges that it is unclear how any nucleic acid comprising about 50 to about 76 nucleotides can meet the limitation of comprising the sequence of SEQ ID NO: 14, which is a 77 nucleotide sequence. Applicant respectfully disagrees.

However, in the interest of advancing prosecution the Applicant has amended claim 1 to recite that the nucleic acid is 77 to 120 nucleotides. Accordingly, Applicant respectfully requests that the rejection of claim 1, and dependent claims 2, 5-8, 11-12, 14 and 21-25, be reconsidered and withdrawn.

Interview Summary Okay  
ED J 10/23/2006

## REMARKS

## 1. Status of the Claims and Formal Matters

## a. Amendments

Claims 1, 8, 11-12, 14, 23 and 26 are pending in this application. Claims 2-7, 9-10, 13, 15-22 and 24-25 were previously cancelled. Claims 1 and 8 are amended. Upon entry of these amendments, claims 1, 8, 11-12, 14, 23 and 26 are pending and under active consideration.

Applicants respectfully request entry of the supplemental amendments and remarks made herein into the file history of the present application.

Claim 1 is amended to recite that the nucleic acid consists of 77 up to 120 nucleotides, support for which may be found throughout the application including SEQ ID NO: 14. Claim 1 is also amended to recite that the nucleic acid comprises the sequence of SEQ ID NO: 14, support for which may be found in previous claim 1.

Claim 8 is amended to recite that the vector comprises an HIV nucleic acid, support for which may be found throughout the application as originally filed. Claim 8 is also amended to recite the HIV nucleic acid consists of the nucleic acid of claim 1 or claim 26, support for which may be found in previous claim 8.

## b. Interview Summary

The undersigned would like to thank Examiner Brusca and Examiner DeJong for the courtesy of the telephone interview of August 9, 2006 during which the cited art, claim scope, and possible amendments were discussed. It was agreed that claim 1 would be amended in the manner herein in order to address any remaining concerns under 35 U.S.C. § 112, second paragraph. Based on this agreement, Applicant makes a similar amendment herein to claim 8.

In addition, the deficiencies of Fire et al., *Nature* (1998) and similar references either or alone or in combination with other references were discussed. Although a rejection based on Fire et al. (or similar references) has not been made on the record, it was agreed by Applicant to address the failure of Fire et al. (and similar references) to teach or suggest the claimed nucleic acids in order to expedite prosecution of the instant application.

## 2. Deficiencies of Fire et al. (and Similar References)

Applicant respectfully submits that Fire et al. (and similar references) either alone or in combination with any other references fail to teach or suggest the instant claims. During the

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